



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 9, 1997

Mr. John Steiner
Division Chief
City of Austin Law Department
P.O. Box 1546
Austin, Texas 78767-1546

OR97-2709

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110976.

The Austin Police Department (the "department") received two requests for a copy of a specific 911 tape. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

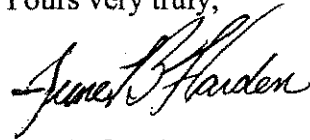
(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication. . . .

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In this instance, you have not stated that the tape pertains to a pending criminal investigation or prosecution so as to demonstrate that its release would interfere with the

detection, investigation, or prosecution of crime. Nor have you demonstrated that the requested information relates to a criminal investigation that *concluded in a result* other than a conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2), (b)(2). Therefore, we conclude that the tape does not come within the purview of section 552.108, and must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/gle

Ref.: ID# 110976

Enclosures: Submitted documents

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